

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

VETTER MOORE,)	
)	
Petitioner,)	
)	
-vs-)	Case No. CIV-09-298-F
)	
UNITED STATES MARSHAL)	
SERVICE, et al.,)	
)	
Respondents.)	

ORDER

On April 30, 2009, United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation, wherein he recommended that petitioner, Vetter Moore's amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 be dismissed without prejudice for failure to comply with the court's orders to cure the procedural deficiencies in his *in forma pauperis* applications. Magistrate Judge Purcell advised petitioner of his right to file an objection to the Report and Recommendation by May 20, 2009, and further advised petitioner that failure to timely object to the Report and Recommendation would waive appellate review of the recommended ruling.

On June 5, 2009, petitioner filed "Fed Rule Civil Proc Rule (6)(d) Objections to Magistrate Recommendation Dismissal" (doc. no. 28) and "Amended 28 U.S.C. [§] 2241 Objection to the U.S. Magistrate [] Purcell Dismissal Recommendation" (doc. no. 29). Although the objections are not timely filed, the court shall nonetheless consider the objections. Having concluded a de novo review of the matter, the court concurs with the analysis and recommendation of Magistrate Judge Purcell. Petitioner

has failed to cure the procedural deficiencies in his *in forma pauperis* applications. In his objections, petitioner has not addressed or challenged these deficiencies and has not attempted to cure the deficiencies. Petitioner also has not sought additional time to cure the deficiencies in his *in forma pauperis* applications. The court therefore concludes that Magistrate Judge Purcell's Report and Recommendation should be accepted, adopted and affirmed in its entirety.¹

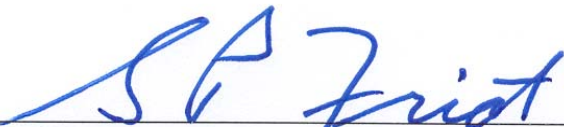
The court notes that Petitioner's "Amended 28 U.S.C. [§] 2241 Objection to the U.S. Magistrate [] Purcell Dismissal Recommendation" (doc. no. 29) is filed of record as two pages. The actual original document submitted by petitioner consisted of only a single page, with writing on both the front and back side of the single page. The clerk of the court, for purposes of filing, copied the back side of the page, scanned it and then filed it of record as the second page of the document. The back side and now page two of the document is entitled "Complaint USA/Kidnapping Confin[e]ment at Oklahoma De Nov[o] Appeal Notice of Filing a New Appeal." It appears from reviewing the back side and now page two of the document that petitioner is seeking to appeal Magistrate Judge Purcell's Report and Recommendation to the Tenth Circuit. The court therefore concludes that the clerk of the court should also file page two of doc. no. 29 entitled "Complaint USA/Kidnapping Confin[e]ment at Oklahoma De Nov[o] Appeal Notice of Filing a New Appeal" as a notice of appeal, as of June 5, 2009, and transmit the notice of appeal to the Tenth Circuit.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Gary M. Purcell on April 30, 2009 (doc. no. 26) is **ACCEPTED**, **ADOPTED** and **AFFIRMED**. Petitioner, Vetter Moore's petition for a writ of

¹ In his objections, petitioner continues to object to the court's referral of petitioner's habeas corpus action to Magistrate Judge Purcell. The court finds petitioner's continued objection to be without merit.

habeas corpus pursuant to 28 U.S.C. § 2241 is **DISMISSED WITHOUT PREJUDICE**. The clerk of the court is directed to file page two of doc. no. 29 entitled “Complaint USA/Kidnapping Confin[e]ment at Oklahoma De Nov[o] Appeal Notice of Filing a New Appeal” as a notice of appeal as of June 5, 2009, and transmit the notice of appeal to the Tenth Circuit, along with a copy of this order. As it appears from petitioner’s papers that he is at a new correctional facility, the clerk of the court is also directed to mail this order and the accompanying judgment to petitioner at the address provided by petitioner as his return address, namely, United States Penitentiary McCreary, Unit 5-B, P.O. Box 3000, Pine Knot, Kentucky 42635. The clerk of the court is further directed to send to petitioner a copy of the change of address form. Petitioner is directed to complete and file the change of address form as soon as practicable so his new address will be of record.

DATED June 9, 2009.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE